Reserved Judgment

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

First Appeal No. 905 of 2001
(Old No. 370/1983)

State of U.P.
through the Collector,
Pithoragarh.

……. Appellant

Versus

Sri Madan Singh and 115 others
All R/o Village Riyansi, Patti Saun,
Tehsil and District Pithoragarh.

…… Claimants-Respondents

Mr. Subhash Upadhyaya, Standing Counsel for the State.
Mr. Lokendra Dobhal/Mr. Rajendra Dobhal, Advocates for respondents.

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Prafulla C. Pant, J.

Dt: 01 May 2006.

Hon'ble Prafulla C. Pant, J. (Oral)

This appeal, preferred under Section 54 of the Land Acquisition Act, 1894, is directed against the judgment and order dated 11.03.1983 in Land Acquisition Case No. 25 of 1982, passed by learned District Judge, Pithoragarh, whereby the amount of compensation has been enhanced by assessing value of the land acquired at Rs. 1800.00 per Nali as against the rate of Rs. 428.57 per Nali assessed by Special Land Acquisition Officer / Collector, Pithoragarh.

(In Uttaranchal hills ‘Nali’ and ‘Mutthi’ are units for measuring the area of land).

2) Brief facts of the case are that for the purposes of construction of Wadda-Kweetar motor road, land measuring 97 Nali 1 Mutthi, situated in Village Riyansi, Patti Saun, Tehsil and District Pithoragarh, was acquired by the State. A Notification under Section 4 of the Land Acquisition Act, 1894 to that effect, appears to have been issued on 2nd September, 1980. The Collector, Pithoragarh gave its award dated 28.02.1981 determining the compensation payable to the landholders at an amount of Rs. 49,803.05 paise. Against said award objections were filed and reference was made under Section 18 of the Land Acquisition Act, 1894, to the District Judge, Pithoragarh, to examine the sufficiency of the compensation awarded.

3) Learned District Judge, after considering the objections of the parties framed following three issues:

1. *To what amount of compensation are the claimants entitled?*
2. *To what amount of interest, if any, are the applicants entitled?*
3. *To what relief, if any, are the applicants entitled?*

4) After recording the evidence and hearing the parties, the learned District Judge found that the correct market value of the land acquired is Rs. 1800.00 per Nali and not Rs. 428.57 per Nali as assessed by the Collector.

Aggrieved by the judgment and award of the District Judge, the State has preferred this appeal.

5) We heard learned counsel for the parties and perused the record.

6) The learned Standing Counsel on behalf of the appellant argued that the learned District Judge has assessed the market value of the land at an exorbitant rate. To examine the contention of learned Standing Counsel, we have gone through the evidence on record. Perusal of the lower court record shows that exemplar sale deeds were filed on behalf of both the parties. Though the Collector awarded compensation assessing the market value of the land the rate of Rs. 428.57 per Nali, but in their objections the landholders claimed that the value of the land is not less than Rs. 5,000/- per Nali. Two exemplar sale deeds are relied by the State. One sale deed dated 16.09.1979, was executed by one Madhva Nand in favour of Ram Singh, who sold his land measuring 3 Nali and 8 Muthhi for Rs. 1,500/- and another sale deed dated 06.11.1979, was executed by one Gopal Singh in favour of Lal Singh in respect of 8 Mutthi land for a price of Rs. 2,000/- The certified copies of both the sale deeds are on record. On the other hand, the objectors / respondents relied on two sale deeds, one dated 19.01.1971, executed by one Bishan Datt in favour of Amar Singh of nearby land of village Suwakot and another sale deed dated 09.02.1981, executed by Govind Singh in respect of land of the same village. Copies of these sale deeds are also filed before the reference court which are on record. A perusal of sale deed

dated 09.02.1981 shows that 14 Mutthi of nearby land of village Suwakot was sold for Rs. 2,000/- which indicates that the market rate of the land was not less than Rs. 2,000/- per Nali. It is pertinent to mention here that 16 Mutthi of land constitutes 01 Nali of land. Another sale deed of the year 1971 mentioned above, a copy of which is paper No. 25-C, also pertains to land of village Suwakot which is adjoining to the land acquired of village Riyansi. That sale deed discloses that in the year 1971, land measuring 01 Nali and 4 Mutthi was sold by the transferor at Rs. 700/- That being so, the learned District Judge has opined that that market value of the land is around Rs. 2,000/- per Nali. After considering the possible appreciation and depreciation in the value of land in view of the period when the aforesaid sale deeds were executed, the learned District Judge assessed the market value of the land acquired at Rs. 1,800/- per Nali. We do not find any error in the finding arrived at by the learned District Judge.

7) Learned Standing Counsel for the appellant State contended that the exemplar sale deeds filed on behalf of the objectors/ respondents pertain to village Suwakot while the land acquired is of village Riyansi, as such, the same should not have been considered. On close scrutiny, the contention made by learned Standing Counsel, in our opinion, appears to be misconceived as from the oral evidence it has come on record that the land acquired of village Riyansi is adjoining to land of village Suwakot. Not only this, it has also come on record that the land of village Suwakot is contiguous to the land of village Riyansi. It is also pertinent to mention here, that the oral

evidence adduced on behalf of the State before the learned District Judge, itself shows that in the year of acquisition and within three years of the acquisition, there was no sale deed executed by anyone in village Riyansi except for the two sale deeds relied by the State. In such circumstances, the District Judge has committed no error of law in taking into consideration the exemplar sale deeds relating to transfer of land of the village Suwakot, which is adjoining to village Riyansi. Apart form the above factors, the District Judge has rightly taken into consideration the fact which has come on record that the land acquired is not very far from main road from Wadda to Jhulaghat and that the military cantonment are which is at a distance of couple of kilometer away from the land acquired.

8) In the above circumstances, we do not see any reason to interfere with the impugned judgment and order passed by the reference court. Accordingly, in our opinion, the appeal is liable to be dismissed. The appeal is dismissed. No order as to costs.

(Prafulla C. Pant, J.) **(Rajeev Gupta, C.J.)**

Dt. 01 May 2006.
H. Negi